

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR  
WARMING DEVICES PRODUCTS  
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/DTS)

This Document Relates To:  
All Actions

**AGENDA AND  
JOINT STATUS UPDATE**

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The parties respectfully submit the following Agenda and Joint Status Update in anticipation of their status conference with Magistrate Judge Schultz on June 24, 2025.

**AGENDA**

**1. Plaintiff Fact Sheets**

Joint submission of ten disputed McDonald Worley Plaintiff Fact Sheets

Any other PFS disputes per the Court's Order of May 28 (Dkt. No. 2835)

**2. Status Update**

Number of Cases in the MDL

Trial Candidates

Selection of Additional Trial Candidates

State Court Cases

Canadian Action

Non-Case-Specific Discovery

Selection of Additional Trial Candidates

Other Pending Motions

Appeals

## STATUS UPDATE

### 1. Number of Cases in the MDL

On June 20, 2025, there were 8,782 active federal Bair Hugger cases pending in this MDL.

### 2. Trial Candidate Cases

In late 2024, the parties selected 34 trial candidate cases pursuant to a protocol negotiated under the supervision of former special settlement master. Sixteen of these cases remain pending as of May 21, 2025:

<b>Plaintiff</b>	<b>Court</b>	<b>Trial</b>	<b>Notes</b>
<i>Boncher</i>	E.D. Pa.	Mistrial on 5/2 following three days of deliberation	3M's Rule 50 motion was denied. New trial not set.
<i>Fratino</i>	D.S.C.	Trial 3/2/26 or 60 days after resolution of Rule 56 motion, whichever is later	Plaintiff expert disclosures due 7/14/25.
<i>Finley</i>	D.S.C.	Trial 5/11/26 or 60 days after resolution of Rule 56 motion, whichever is later	Plaintiff expert disclosures due 7/21/25.
<i>Billitteri</i>	D. Nev.	Not set	Fact discovery closed. MSJ and FRE 702 motions due 8/13/25.
<i>Cage</i>	S.D. Ohio	Not set	In discovery.
<i>Clark (fka Butler)</i>	S.D. Ohio	Not set	Substitution granted following plaintiff's death. MSJ and FRE 702 motions filed 6/4/25.
<i>Ciolino-Terzoli</i>	D. Nev.	Not set	MSJ and FRE 702 motions due 8/13/25.

<i>Goffinet</i>	S.D. Ohio	Not set	MSJ due 7/25/25.
<i>Jones</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Moore</i>	D. Minn.	Not set	Removed from calendar based on product ID issue.
<i>Pelican</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Prichard</i>	N.D. Ga.	Not set	Schedule stayed pending decision on product ID-focused MSJ; Plaintiff has requested to amend to add Stryker as a defendant.
<i>Robinson</i>	M.D. Fla.	Not set	MSJ and FRE 702 motions under advisement. Trial call of 8/4/25 has been vacated and will be reset.
<i>Skinner</i>	D. Minn.	Not set	MSJ and FRE 702 motions under advisement.
<i>Sooter</i>	N.D. Ill.	Not set	In discovery.
<i>Vinson</i>	S.D. Tex.	Not set	Stryker added as defendant based on product ID dispute. In discovery.

### 3. Selection of Additional Trial Candidates

On May 27, the parties' leadership submitted their separate proposals for further proceedings in the 150 cases identified according to the February 7 Order (Dkt. No. 2549).

#### 4. State Court Cases

There are nine pending state court cases:

Plaintiff	Court	Trial Date	Notes
<i>Tye</i>	Jackson County, Missouri	Vacated	Settled at mediation on 6/17/25. Settlement agreement to be finalized.
<i>Kelso</i>	Harris County, Texas	2/23/26	Healthcare providers also named as defendants. In discovery.
<i>Moore</i>	Philadelphia Common Pleas, Pennsylvania	4/6/26	Hospital also named as a defendant. In discovery.
<i>Friedrich</i>	Ramsey County, Minnesota	Not set	Putative class action alleging consumer protection claims. Prior schedule vacated; new scheduled not yet set.
<i>Capoferri, et al.</i>	Ramsey County, Minnesota	Not set	Newly filed case – 10 plaintiffs asserting personal injury and consumer protection claims.
<i>Barry</i>	Lewis and Clark County, Montana	Not set	Hospital named as co-defendant was dismissed on summary judgment. In discovery.
<i>George</i>	Lewis and Clark County, Montana	Not set	Hospital named as co-defendant; has moved for early summary judgment. In discovery.
<i>Sedberry</i>	Bernalillo County, New Mexico	Not set	Hospital also named as a defendant.
<i>Sparrow</i>	Bernalillo County, New Mexico	Not set	Healthcare providers also named as defendants.

## **5. Canadian Action**

On June 22, 2016, Defendants were served with a Canadian putative class action, *Driessen v. 3M Canada Company, 3M Company and Arizant Healthcare Inc.*, filed in Ontario Superior Court of Justice, File No. 16-69039. Plaintiff Driessen seeks to represent a putative class of “[a]ll persons residing in Canada who had the 3M Bair Hugger Forced-Air Warming Device used on them during surgery.” There has been no recent case activity.

## **6. Non-Case-Specific Fact and Expert Discovery**

On May 19, Plaintiffs filed a Motion to Compel Discovery Responses Pursuant to CAR Protocol (PTO 12) or in the Alternative to Correct Search Terms. (Dkt. 2816.) The motion will be argued on June 24 at 11 a.m., in conjunction with this Status Conference. The parties have also been conferring on discovery supplementation issues and anticipate that there may be further motion practice on these issues.

The Court has also taken under advisement the issue of production of various insurance policies held by Defendants as it relates to this litigation.

## **7. Other Pending Motions**

Defendants filed their Thirteenth Motion to Dismiss relating to deceased plaintiffs on April 11, 2025. (Dkt. No. 2718.) No opposition has been filed.

Plaintiff in member case *Biebrach v. 3M Co.*, 25-cv-2184, moved to remand his case to Cook County, Illinois. Defendants filed their opposition on June 17, 2025.

As noted in the May 28, 2025 Order (Dkt. No. 2835), the Court has taken under advisement Defendants’ motion to dismiss cases where (i) Plaintiffs failed to serve a PFS;

and (ii) Plaintiffs failed to sign and verify the information contained in the PFS. Dkt. No. 2574. The May 28, 2025 Order otherwise mooted Defendants' motions to dismiss at Dkt. Nos. 2584 and 2808, and mooted Defendants' motion to dismiss at Dkt. 2574 for cases where Plaintiffs failed to provide an executed medical authorization form.

A motion for substitution is pending in member case *Wilder*, No. 16-cv-3948. The Court ordered the plaintiff to file a reply to Defendants' opposition by June 17, 2025. (Dkt. No. 16.) No reply has been filed.

No other motions are pending at this time.

## **8. Appeals**

None pending.

Dated: June 20, 2025

Respectfully submitted,

s/Benjamin W. Hulse

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